IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8140 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

USHABEN J VYAS

Versus

STATE OF GUJARAT

Appearance:

MR YN OZA for Petitioner

MR RJ OZA for Respondent No. 1

RULE SERVED for Respondent No. 3, 4, 5

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 03/03/2000

ORAL JUDGEMENT

When the matter was called out, unfortunately, again, learned Assistant Government Pleader Mr M.D.Gohil has stated that the copy of the affidavit in reply and instructions are not with him. However, on perusing the

affidavit in reply after taking a copy from the advocate of the other side, he read the objections raised in the affidavit in reply. Affidavit in rejoinder is also filed.

In so far as the material facts of the present petition are concerned, they not in dispute. The petitioner entered in service of the State Government in the Education Department on 2.1.51. Her services came to be transferred to Bombay State and thereafter, consequent upon the formation of Gujarat State, she was allocated to the State of Gujarat. She was allowed to voluntarily retire upon satisfaction of the eligibility criteria for the purpose of voluntary retirement from service with effect from 31.12.86. Thereafter, she went on making claims, time and again, by writing letters, by sending representations, by personal meetings etc. However, all her efforts ended in smoke. Therefore, she was constrained to file this petition under Article 226 of the Constitution of India.

There is also no dispute about the fact that she had put in 36 years of service and, thereafter, she has voluntarily retired as per the Government decision and policy. She has not been paid the amount of provident fund and final fixation of pension is also yet not done. She is getting only the provisional pension of Rs.1100/-. Likewise, the benefit of commutation is also not given to her.

It is, really, very unfortunate that even a person who is retired in 1986 and filing this petition in 1988, the respondent authorities have failed to finalise the commutation available fixing the final pension and payment of provident fund amount, despite the avowed and pronounced policy of the Government that the first pension shall be handed over to the employee of the Government on the last day of the service.

In the circumstances, the respondent No.4, Director of Pension is directed to decide and pay the aforesaid three pending retiral service benefits to the petitioner on or before 31.5.2000, in the light of Government Resolution dated 3.2.86 as in view of the affidavit in rejoinder, all the papers have been submitted and nothing remains to be furnished by the petitioiner and there was no delay on the part of the petitioner. The Director of Pension, in case of difficulty, is directed to call for the requisite information and papers from the respondent No.3, District Education Officer. Respondent No.2, Director of Education is directed to supervise and monitor the

implementation of the directions given in this order. Any failure on any parts, in the facts and circumstances of the case, will be viewed very seriously. The amount which may be found due and payable to the petitioner shall be paid along with the interest permissible as per the Government Resolutions and the policy. In the event of any difficulty, it will be open for the parties to approach this Court for further clarification.

In view of the above directions, this petition stands, partly, allowed. Rule is made absolute with costs.

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(vjn)